

**ARKANSAS DEPARTMENT OF EDUCATION
AMENDING ADMINISTRATIVE REGULATION**

NUMBER: ADE 125

TITLE: Charter Schools

EFFECTIVE DATE: September 14, 2001

STATUTORY AUTHORITY: Ark. Code Ann. § 6-13-101 and Act 1311 of 2001

NECESSITY AND FUNCTION: To establish the requirements and procedures for the application of a charter school, for monitoring a school once it has been granted a charter, and for disbursing of funds to charter schools.

PAGES FILED: ADE 125-1 through ADE 125-10

Raymond Simon, Director
Arkansas Department of Education

PROMULGATION DATE: August 13, 2001

CONTACT PERSON: Randall Greenway
#4 Capitol Mall, Room 404-A
Little Rock, AR 72201
501-682-2009

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Education
DIVISION Central Administration
DIVISION DIRECTOR Dr. Woodrow Cummins
CONTACT PERSON Mr. Randall Greenway
ADDRESS 4 Capitol Mall Room 404-A
PHONE NO. 501-682-2009 FAX NO. 501-682-2534

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after ☐ Short Title of this Rule ☐ below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule? **Rules and Regulations Regarding Charter Schools**
2. What is the subject of the proposed rule? **To set forth the procedure for application, monitoring of charter schools and disbursement of funds**
3. Is this rule required to comply with federal statute or regulations?
Yes _____ No **XX** _____

If yes, please provide the federal regulation and/or statute citation.
4. Was this rule filed under the emergency provisions of the Administrative Procedures Act? Yes _____ No **XX** _____
If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? Yes_____ No_____

5. Is this a new rule? Yes_____ No **XX**

Does this repeal an existing rule? Yes_____ No **XX**

If yes, please provide a copy of the repealed rule.

Is this an amendment to an existing rule? If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation. **ACA 6-23-101 as amended by Act 1311 of 2001**
7. What is the purpose of this proposed rule? Why is it necessary? **It is necessary to establish the requirements and procedures for the application of a charter school, for monitoring a school once it has been granted a charter by the SBE, and for disbursing of funds to charter schools.**
8. Will a public hearing be held on this proposed rule? Yes **XX** No_____ If yes, please give the date, time, and place of the public hearing.
July 18, 2001 @ 10A Auditorium - Arch Ford Building
9. When does the public comment period expire?
July 31, 2001
10. What is the proposed effective date of this proposed rule?
August 13, 2001
11. Do you expect this rule to be controversial? Yes_____ No **XX** If yes, please explain.
12. Please give the names of persons, groups, or organizations which you expect to comment on these rules. Please provide their position (for or against) if known.

**Arkansas School Board Association
Arkansas Education Association
Arkansas Association of Educational Administrators**

DEPARTMENT Education
DIVISION Central Administration
PERSON COMPLETING THIS STATEMENT Randall Greenway
TELEPHONE NO. 501-682-2009 FAX NO. 501-682-2534

FINANCIAL IMPACT STATEMENT

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules and Regulation Governing
Charter Schools

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes _____ No XX

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

1997-98 Fiscal Year

1998-99 Fiscal Year

General Revenue _____	General Revenue _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other _____	Other _____
Total _____	Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

1997-98 Fiscal Year

1998-99 Fiscal Year

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

1997-98 Fiscal Year

1998-99 Fiscal Year

DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT
OF PROPOSED REGULATION
(In compliance with Acts 884 and 1253 of 1995)

Regulation Title: **Charter Schools**

Summary Description of Regulatory Proposal: **To establish the requirements and procedures for the application for a charter school, for monitoring a school and for disbursing funds to a charter school.**

Cite Statutory Authority for this Regulatory Proposal:

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- III. Additional Comments.

Prepared by: (Name) **Randall Greenway**
 (Title) **Charter School Liaison**
 (Date) **6-11-01**

**ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS
GOVERNING CHARTER SCHOOLS**

Approved August 13, 2001

1.00 Regulatory Authority

- 1.01 These rules and regulations shall be known as the Arkansas Department of Education Rules and Regulations Governing Charter Schools.
- 1.02 The State Board of Education enacted these rules and regulations pursuant to its authority under Ark. Code Ann. §6-11-105, and Ark. Code Ann. §§§6-23-206, 309, and 507.

2.00 Purpose of Regulations

- 2.01 The purposes of these rules and regulations are to implement Ark. Code Ann. §6-23-101 - 507, and to establish the requirements and procedures for the application of a charter school, for monitoring a school once it has been granted a charter by the State Board of Education, and for disbursing funds to a charter school.

3.00 Definitions

For the purpose of these rules and regulations:

- 3.01 “Debt” is defined as a financial obligation incurred by a charter school, which is due in more than 365 days.
- 3.02 “Average daily membership (ADM)” is defined as the total number of days attended plus the total number of days absent by students during the first three (3) quarters of each school year, divided by the number of school days actually taught in the school during that period of time.
- 3.03 “Local Board” means a board of directors exercising the control and management of a public school district and in addition for the purposes of these regulations a local board refers to the board of directors of the school district where the charter school will be physically located.
- 3.04 “Public school district in which enrollment is likely to be affected” is defined as the school districts in the geographical area surrounding the proposed open-enrollment charter school from which students are likely to be drawn across district lines for enrollment in the charter school.
- 3.05 “Application” is defined as the document presented to the State Board of Education requesting to enter into a charter that describes the school and provides all of the information required by law and the Arkansas Department of Education.

The term application shall be synonymous with the term petition, and the terms are interchangeable throughout these rules and regulations and as used in Ark. Code Ann. §6-23-101 - 507.

- 3.06 “Letter of Intent” is defined as a written notice submitted to the Department of Education Charter School Office that a public school district or an eligible entity intends to file a charter school application. Such letter of intent shall be submitted on forms provided by the Department of Education.

4.00 Observance of Anti-Discrimination Laws

- 4.01 All charter schools shall observe and comply with all anti-discrimination law, both federal and state.
- 4.02 For the purposes of the Individuals with Disabilities Education Act (IDEA) and these rules and regulations, all charter schools are responsible for ensuring that the requirements of IDEA are met.
- 4.03 For the purposes of Section 504 of the Rehabilitation Act and these rules and regulations, all charter schools are responsible for ensuring that the requirements of Section 504 are met.

5.00 Application Process, Schedule, Forms and Technical Assistance

- 5.01 A procedure for establishing a charter school, shall be published by the Department of Education, as approved by the State Board of Education. All dates and requirements in the procedures for establishing a charter school shall be strictly followed.
- 5.02 Application forms and other documents needed for the charter school application process shall be provided by the Department of Education Charter School Office.
- 5.03 Any requests for technical assistance by a charter applicant shall be made to the Department of Education Charter School Office.
- 5.04 A public school district is not eligible to apply for an open-enrollment charter school.

6.00 Conversion Charter School – Application Approval Procedures

- 6.01 Each charter applicant must submit, by certified mail on or before the established deadline, to the Department of Education Charter School Office a letter of intent signed by the school board president.
- 6.02 Each charter applicant shall prepare an application that describes the elements of the applicant’s plan for establishing a conversion charter school. The application shall be on a form provided by the Department of Education. Technical

assistance in preparing the application may be requested from the Department of Education Charter School Office.

- 6.03 The application shall be reviewed by the local board of the public school district requesting to convert an existing public school to a charter school. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent to the Department of Education Charter School Office and the applicant. If approved, the application shall be forwarded by the local board to the State Board of Education.

7.00 Responsibilities of the State Board of Education – Conversion Charter Schools

- 7.01 The State Board shall not approve a conversion charter school application from a district that has not been approved by the district's local board.
- 7.02 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.
- 7.03 The State Board shall review the applications for proposed charter schools. The State Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.
- 7.04 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.
- 7.05 The decision of the State Board of Education shall be final.

8.00 Open-Enrollment Charter School – Application Approval Procedures

- 8.01 Each charter applicant must submit to the Department of Education Charter School Office a letter of intent sent by certified mail on or before the established deadline. This same letter of intent is also to be sent by certified mail to the local board of the public school district where the proposed charter school will be located.
- 8.02 Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a charter school. The application shall be on a form provided by the Department of Education. Technical assistance in preparing the application may be requested from the Department of Education Charter School Office.

- 8.03 The application shall be sent to the local board of the public school district where the proposed charter school will be located. The applicant shall send the application by certified mail to the Superintendent of the local district. The applicant shall provide the Department of Education with verification that the required notice was sent to the local board. A copy of this same application shall be sent to the Department of Education.
- 8.04 Each open-enrollment charter applicant shall send a copy of the application to all public school districts in which enrollment is likely to be affected by the charter school. The application shall be sent by certified mail to the local school board(s) in care of the Superintendent(s). Documentation shall be provided to the Department of Education, in the form of certified mail receipts that the applications were sent.
- 8.05 The board of the public school districts in which enrollment is likely to be affected by the proposed charter school may review the open-enrollment charter school application and submit any written findings or statements of the board, signed by the board president, to the Department of Education Charter School Office by an established deadline. The school board shall send a copy of the written findings or statements to the applicant by certified mail. Failure to submit this information will constitute the conclusion that the proposed charter school will have no impact on the district.
- 8.06 The local board of the district where the proposed charter school is to be located shall review the open-enrollment charter school application. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent by certified mail to the Department of Education Charter School Office and to the charter school applicant by an established deadline.
- 8.07 The applicant for an open-enrollment charter school whose application is disapproved by the local board shall have the immediate right to proceed with a written notice of appeal to the State Board of Education. To exercise the right to appeal, the applicant must send written notice of appeal to the State Board within ten (10) days after-receiving notice of the local board's disapproval of the application for an open-enrollment charter school.

9.00 Responsibilities of the State Board of Education – Open-Enrollment Charter Schools

- 9.01 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.

- 9.02 In the event an application is denied by the local board, the State Board shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal at a location where all interested parties may appear and present relevant information regarding the proposed open-enrollment charter school.
- 9.02.01 The local board and the boards likely to be affected by the proposed charter school shall have a combined total of twenty (20) minutes to present the arguments for disapproval of the charter school to the State Board. Following the presentations by the public school district boards of education, the charter applicant shall have twenty (20) minutes to present its arguments to the State Board for approval of the proposed charter school. The State Board shall follow the presentations with discussion of the charter application and possible questions to the public school board representative(s) and/or the charter applicant.
- 9.03 The State Board shall review the applications for proposed charter schools. The Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.
- 9.04 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or to receive technical assistance to correct deficiencies in the application.
- 9.05 The decision of the State Board shall be final.

10.00 Content of Application and Charter

- 10.01 The charter school application shall include, but is not limited to the following:
- 10.01.01 educational mission;
 - 10.01.02 educational need;
 - 10.01.03 description of public hearing results;
 - 10.01.04 description of educational plan, which clearly addresses how charter school will improve student learning and academic achievement and meet or exceed state goals;
 - 10.01.05 description of governance and organizational structure;
 - 10.01.06 description of facilities to be used, location of the proposed school, and the present use of the facility and the use for the past three (3) years;

- 10.01.07 copies of annual budget and financial plan (including all sources of funding);
 - 10.01.08 agreement to provide annual report of progress toward meeting performance goals to parents, community, local board and state board;
 - 10.01.09 description of admission procedure;
 - 10.01.10 description of support services;
 - 10.01.11 identification of regulations, if any, to be waived, with rationale for waiver request;
 - 10.01.12 school calendar and school day schedule; and
 - 10.01.13 description of age or grade range of pupils to be enrolled.
- 10.02 In addition to the requirements identified in section 10.01, an application for an open-enrollment charter school shall include, but is not limited to, the following:
- 10.02.01 specification of period for which the charter or any charter renewal is valid, contingent upon acceptable student performance levels established within the state accountability system;
 - 10.02.02 prohibition of discrimination in admission on the basis of gender, national origin, race, ethnicity, religion, disability, academic or athletic eligibility, although the charter may provide for the exclusion of a student who has been expelled from another public school district;
 - 10.02.03 specification of the qualifications to be met by professional employees of the program;
 - 10.02.04 description of budget process;
 - 10.02.05 description of annual audit of financial and programmatic operations, including how the charter school will provide information needed by the public school district in which the charter school is located;
 - 10.02.06 description of facilities to be used and its location including the terms of the facility utilization agreement if the facility for the charter school is owned or leased from a sectarian organization;
 - 10.02.07 description of geographical area, school district or school attendance area to be served by the program;

- 10.02.08 description of admission and enrollment criteria and student recruitment and selection processes, including provision for a random, anonymous student selection method if more eligible students apply for a first-time admission than the charter school is able to accept; and
- 10.02.09 a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions including hiring and retention of administrators, teachers, and other employees.

11.00 Enrollment

- 11.01 Enrollment for an existing public school converted to a charter school will be determined in the manner similar to the enrollment procedures for the school district in which the charter school is located or similar to the enrollment procedures for district magnet schools.
- 11.02 If more eligible students apply for admission than the charter school is able to accept, then the charter school shall create an enrollment process based upon a random anonymous student selection method, except as allowed in Act 463 of 2001.
- 11.03 While a charter school may operate on a traditional calendar or a year-long calendar, all charter schools shall begin the school year in the fall.

12.00 Funding

- 12.01 An existing public school converted to a charter school shall receive funds equal to the amount apportioned by the district from state and local revenue per average daily membership.
- 12.02 The Department of Education shall establish procedures to ensure that every charter school receives the Federal funds for which the charter school is eligible.
 - 12.02.01 The Department of Education shall take such measures as necessary to ensure that a charter school receives the federal funds for which the school is eligible not later than five (5) months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in the charter school are not fully and completely determined until that charter school actually opens.
 - 12.02.02 The measures shall also ensure that every charter school expanding its enrollment in any subsequent year of operation receives the federal funding for which the charter school is eligible not later than five (5) months after such expansion.

- 12.03 The submission to an annual certified audit as required by Ark. Code Ann. §6-23-101 et seq., as amended by Act 1311 of 2001, shall be made according to Arkansas Law and to the Department of Education fiscal regulations and time lines. Failure to submit such audit in a timely manner shall result in suspension of state aid payments until such audit is received by the Department of Education. The school's fiscal year shall run from July 1 through June 30.
- 12.04 All open-enrollment charter schools operated by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code are subject to an audit of the receipt and expenditure of state financial assistance by the Division of Legislative Audit in accordance with Act 958 of 2001.

13.00 Evaluation, Monitoring and Reporting Requirements of Charter Schools

- 13.01 The Arkansas Department of Education shall conduct an annual evaluation of all charter schools, which shall include, but not be limited to, consideration of the following:
 - 13.01.01 student scores on assessment instruments;
 - 13.01.02 student attendance;
 - 13.01.03 student grades;
 - 13.01.04 student discipline incidents
 - 13.01.05 socioeconomic data on students' families;
 - 13.01.06 parent satisfaction with the school;
 - 13.01.07 student satisfaction with the schools;
 - 13.01.08 on-site monitoring of the facility; and
 - 13.01.09 other terms of the school's charter.
- 13.01 As a condition of its charter, each charter school is required to provide an annual report to parents, the community and the State Board that details its progress in meeting its academic performance objectives.
- 13.02 Each charter school shall participate in the Arkansas Public School Computer Network reporting requirements.
- 13.03 Each charter school shall provide to the Department of Education the same data required of other public schools, unless such data requirement is waived by the terms of the charter.

14.00 Basis and Procedure for Charter Modification, or Charter School Probation, Revocation, or Denial of Renewal.

- 14.01 The State Board may modify the charter of a charter school or it may place a charter school on probation or revoke its charter or deny renewal of its charter at any time the Board deems it necessary to do so.
- 14.02 The State Board shall notify the chief operating officer of the charter school of the alleged violation of the school's charter or of the offense in question. The notice shall include the State Board's proposed action. The notice shall be delivered by certified mail to the chief operating officer of the charter school.
- 14.03 The chief operating officer of the charter school, on behalf of the charter school, may request, in writing, a hearing before the State Board.
- 14.04 The State Board shall hold a hearing, if requested, within forty-five (45) calendar days of receipt of the hearing request.
- 14.05 The hearing shall be held at the facility at which the charter school is located.
 - 14.05.01 Notice of the hearing shall be provided to the superintendent and the president of the local school board of the school district where the conversion charter school is located or to the chief operating officer of an open-enrollment charter school.
 - 14.05.02 The hearing shall be open to the public.
- 14.06 The decision of the State Board shall be final.

15.00 Impact on Desegregation Efforts

- 15.01 The petitioners for each application for a proposed charter school must include a written evaluation describing the potential impact on the efforts of a public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.
- 15.02 The local board shall also prepare a written evaluation of the potential impact the proposed charter school will have on the efforts of the school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. This evaluation shall be forwarded to the State Board.
- 15.03 Each application for a proposed charter school shall be examined for its effect on the minority and majority percentages of student enrollment in the public school districts within the charter school's proposed population outreach.

- 15.04 The Department of Education shall compute the minority and majority percentages of each county's public school population and shall then compute the acceptable range of variance from those percentages for school districts within each county from which the charter school will receive students.
- 15.05 Each application for a proposed charter school shall be reviewed for its effect on these percentages that may be caused by:
 - 15.05.01 the proposed charter school's proposed population range;
 - 15.05.02 the size of the individual charter school;
 - 15.05.03 the type of student population to be served; and
 - 15.05.04 the proximity of a proposed charter school to an existing school district under desegregation obligations.
- 15.06 Each application for a proposed charter school shall be reviewed for program and services as compared to the program and service requirements of the districts under the desegregation order.
- 15.07 Technical assistance in this review may be provided by the Department of Education's section on Accountability and its unit on Desegregation Monitoring.